

**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
SAN FRANCISCO SESSION
MAY 3, 4, and 5, 2005**

(FIRST AMENDED)

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom, located at 350 McAllister Street, Fourth Floor, San Francisco, California, on May 3, 4, and 5, 2005.

TUESDAY, MAY 3, 2005—9:00 A.M.

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|-----|---------|-------------------------------------|
| (1) | S124286 | Snowney v. Harrah's |
| (2) | S114097 | Mackey v. Department of Corrections |
| (3) | S123790 | People v. Seijas (Larry) |

1:30 P.M.

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| (4) | S114829 | Maynard v. Brandon |
| (5) | S119975 | People v. Athar (Syed) |
| (6) | S037195 | People v. Kennedy (Jerry) [<i>Automatic Appeal</i>] |

WEDNESDAY, MAY 4, 2005—9:00 A.M.

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| (7) | S123042 | In re Silverton on Discipline |
| (8) | S120677 | People v. Sorden (Joseph) |
| (9) | S122060 | Coachella Valley Mosquito & Vector Control Dist. v. CA Public Employment Relations Bd. (CA School Employees Assoc., Real Party in Interest) |

1:30 P.M.

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| (10) | S112386 | Wasatch Property Management v. Degrate |
| (11) | S012945 | People v. Davis (Stanley) [<i>Automatic Appeal</i>] |

THURSDAY, MAY 5, 2005—9:00 A.M.

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| (12) | S115495 | O'Riordan v. Federal Kemper Life Assurance |
| (13) | S123238 | MW Erectors v. Niederhauser Ornamental & Metal Works |
| (14) | S126630 | Le Francois v. Goel |

1:30 P.M.

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| (15) | S019697 | People v. Ward (Carmen) [<i>Automatic Appeal</i>] |
| (16) | S039632 | People v. Wilson (Robert) [<i>Automatic Appeal</i>] |

George
Chief Justice

If exhibits are to be transmitted to this court, counsel must comply with Rule 18(c), California Rules of Court.

**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
SAN FRANCISCO SESSION
MAY 3, 4, and 5, 2005**

The following case summaries are issued to inform the public and the press of cases that the Supreme Court has scheduled for oral argument and of their general subject matter. Generally, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public and the press. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

TUESDAY, MAY 3, 2005—9:00 A.M.

(1) Snowney v. Harrah's, S124286

#04-73 Snowney v. Harrah's, S124286. (B164118; 116 Cal.App.4th 996; Superior Court of Los Angeles County; BC267575.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. This case presents the following issue: In an action alleging false advertising and unfair business practices, is a Nevada hotel subject to personal jurisdiction in California when the hotel advertises in California, maintains a toll-free telephone number for accepting reservations from within California, and maintains an Internet Web site capable of processing online reservations of California residents?

(2) Mackey v. Department of Corrections, S114097

#03-57 Mackey v. Department of Corrections, S114097. (C040262; 105 Cal.App.4th 945; Superior Court of Sacramento County; 99AS03354.) Petition for review after the Court of Appeal affirmed the summary judgment in a civil action. This case presents the following issues: (1) When a male supervisor repeatedly grants favorable treatment in promotions and other employment decisions to female employees with whom the supervisor has had a consensual sexual relationship, may such conduct support a claim of sexual harassment under the Fair Employment and Housing Act (FEHA) by female employees who have not been involved in such a relationship with the supervisor? (2) Even if plaintiffs lacked a viable claim for sexual harassment under FEHA on the

basis of the foregoing conduct, do the antiretaliation provisions of FEHA prohibit an employer from subjecting plaintiffs to adverse treatment for making such a claim?

(3) #04-52 *People v. Seijas (Larry)*, S123790

#04-52 *People v. Seijas (Larry)*, S123790. (B160209; 115 Cal.App.4th 1301; Superior Court of Los Angeles County; SA043730.) Petition for review after the Court of Appeal reversed a judgment of conviction of a criminal offense. This case includes the following issue: Can the testimony of a witness at a preliminary hearing be presented at trial under Evidence Code section 1291 on the rationale that the witness is unavailable, when the witness invokes the Fifth Amendment at trial due to an asserted fear of prosecution for having previously given a different statement to police regarding the crime for which the defendant is on trial?

1:30 P.M.

(4) *Maynard v. Brandon*, S114829

#03-85 *Maynard v. Brandon*, S114829. (E031430; unpublished opinion; Superior Court of Riverside County; RIC331910.) Petition for review after the Court of Appeal reversed a judgment confirming an arbitration award. This case presents the following issue: May a party who fails to file a timely request for trial de novo following arbitration of an attorney fee dispute (Bus. & Prof. Code, § 6204) obtain relief from default under Code of Civil Procedures section 473?

(5) *People v Athar (Syed)*, S119975

#03-145 *People v. Athar (Syed)*, S119975. (D037485; 112 Cal.App.4th 73; Superior Court of San Diego County; SCD145045.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case includes the following issue: Can an enhancement be imposed under Penal Code section 186.10(c) for “money laundering” a sum exceeding a specified dollar amount, if the defendant was not convicted of money laundering under section 186.10(a), but instead was convicted only of conspiracy to commit money laundering?

(6) People v. Kennedy (Jerry), S037195 [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.

WEDNESDAY, MAY 4, 2005—9:00 A.M.

(7) In re Silverton on Discipline, S123042

#04-96 In re Silverton on Discipline, S123042. Unpublished order. Review on the court's own motion after a State Bar Court recommendation of discipline. This case presents the following issue: Is the discipline recommended by the State Bar Court in this matter adequate or should this court impose a greater degree of discipline in light of the attorney's prior disbarment and present misconduct?

(8) People v. Sorden (Joseph), S120677

#04-03 People v. Sorden (Joseph), S120677. (A099674; unpublished opinion; Superior Court of San Mateo County; SC-050781.) Petition for review after the Court of Appeal reversed a judgment of conviction of a criminal offense. This case presents the following issue: When a defendant is charged with the felony offense of "willfully" failing to register as a sex offender (Pen. Code, § 290), under what circumstances, if any, does the defendant's unintentional forgetting of the obligation to register, based upon an allegedly impaired mental condition, constitute a defense to the charge?

(9) Coachella Valley Mosquito & Vector Control Dist. v. CA Public Employment Relations Bd. (CA School Employees Assoc., Real Party in Interest), S122060

#04-29 Coachella Valley Mosquito & Vector Control Dist. v. CA Public Employment Relations Bd. (CA School Employees Assoc., Real Party in Interest), S122060. (E031527; 114 Cal.App.4th 46; Superior Court of Riverside County; INC 26814.) Petition for review after the Court of Appeal affirmed the judgment in an action for administrative mandate. This case includes the following issue: Did legislation transferring initial jurisdiction over unfair labor practice claims under the Meyers-Milias-Brown Act (Gov. Code, §§ 3500–3511) from the superior court to the Public Employment Relations Board (Stats. 2000, ch. 901) thereby reduce the statute of limitations for filing such claims from three years (Code Civ. Proc., § 338(a)) to the six-

month filing period for claims filed with the board under the Education Employment Relations Act (Gov. Code, §§ 3540–3549.3)?

1:30 P.M.

(10) Wasatch Property Management v. Degrate, S112386

#03-20 Wasatch Property Management v. Degrate, S112386. (D039656; 103 Cal.App.4th 913; Superior Court of San Diego County; CA775163.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case includes the following issue: Does Civil Code section 1954.535, which requires that tenants receive 90 days notice of a landlord’s intent to terminate a contract with a local housing agency under the federally subsidized Section 8 program (42 U.S.C. § 1437f), apply to the termination of a tenant’s individual rental agreement, which, as a consequence, results in termination of the contract with the housing agency, or only to direct termination of the contract with the housing agency?

(11) People v. Davis (Stanley), S012945 [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.

THURSDAY, MAY 5, 2005—9:00 A.M.

(12) O’Riordan v. Federal Kemper Life Assurance, S115495

#03-86 O’Riordan v. Federal Kemper Life Assurance, S115495. (C037789; unpublished opinion; Superior Court of Sacramento County; 99AS04726.) Petition for review after the Court of Appeal affirmed the summary judgment in a civil action. This case includes the following issue: When an insurance agent told an applicant for a life insurance policy that she could answer “no” to a question on the insurance application that asked whether the applicant had “smoked cigarettes in the past 36 months” even though the applicant informed the agent that she had smoked a couple of cigarettes in social settings during that period, could the insurance company, after the insured’s death, refuse to pay the

death benefits under the policy on the ground that the insurance agent had neither actual nor ostensible authority to provide such advice to the applicant?

(13) MW Erectors v. Niederhauser Ornamental & Metal Works, S123238

#04-44 MW Erectors v. Niederhauser Ornamental & Metal Works, S123238. (G030681, G030825; 115 Cal.App.4th 512; Superior Court of Orange County; 01CC00661.)

Petition for review after the Court of Appeal reversed the judgment in a civil action. This case includes the following issue: Is a contractor that is unlicensed at the time of executing a contract, but that obtains the license partway through performance, barred from any recovery on the contract by Business & Professions Code section 7031, or can it nonetheless bring an action to collect on the portion of the work performed while it had a valid license?

(14) Le Francois v. Goel, S126630

#04-98 Le Francois v. Goel, S126630. (H025213; 119 Cal.App.4th 425; Superior Court of Santa Clara County; CV787632.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case includes the following issue: Does a trial court have the authority to rule on a second motion for summary judgment or summary adjudication, even though the second motion did not meet the requirements of Code of Civil Procedure section 1008(a), relating generally to applications for reconsideration, or the requirements of Code of Civil Procedure section 437c(f)(2), relating to motions for summary judgment following an unsuccessful motion for summary adjudication?

1:30 P.M.

(15) People v. Ward (Carmen), S019697 [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.

(16) People v. Wilson (Robert), S039632 [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.